IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL REVISION PETITION NO. 1065/2006

(Rajesh V/s State of Rajasthan & Ors.)

Date of Order : 24/07/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Rakesh Kalla for the petitioner.

Mr. V.R.Mehta, P.P.

BY THE COURT:-

By the instant criminal revision petition under Section 397 r/w 401 Cr.P.C., the petitioner has challenged the order dated 27.10.2005 passed by Additional Chief Judicial Magistrate, Rajsamand (for short 'the trial court' hereinafter) in Criminal Case No. 68/05.

Heard learned counsel for the parties.

It is contended by learned counsel for the petitioner that the Court at Rajsamand has no territorial jurisdiction and submits that an FIR lodged by non-petitioner Smt. Rekha being

FIR No.225/05 at P.S. Rajnagar came to be challenged by the petitioner and others before this Court by way of Cr. Misc. Petition No.668/05 wherein this Court quashed the FIR on the ground that the parties have compromised the matter. Be that as it may, the trial court was called upon by an application to decide the point of jurisdiction. By the order impugned, the trial court noticed that non-petitioner Smt. Rekha as also her brother have filed the affidavits before the Court stating therein that the non-petitioner Smt. Rekha has been residing with his brother at Rajsamand who is serving in Punjab National Bank and those affidavits have not been controverted. It has further been stated that the petitioner himself is residing at Rajsamand and that fact has also not been controverted. Thus, on the basis of the material available on record the trial court concluded that the Court at Rajsamand has jurisdiction.

In my view the order cannot be said to be erroneous. The point of jurisdiction has to be decided in the light of Section 126 Cr.P.C. which provides that the proceedings under Section 125 may be taken against any person in any district- (a) where he is, or (b) where he or his wife resides, or (c) where he last resided with his wife, or as the case may be, with the mother of the illegitimate child. In the instant case, the petitioner and his wife Smt. Rekha the non petitioner, both are residing at

Rajsamand and therefore, the Court at Rajsamand has jurisdiction.

In the circumstances therefore, the petition has no force and it is therefore, dismissed.

(H.R.PANWAR),J.

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